

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8085 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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YAGNIK PIYUSHKUMAR R

Versus

NAVJIVAN MILLS LTD

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Appearance:

MR PK JANI for Petitioner

None present for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/06/97

ORAL JUDGEMENT

Heard the learned counsel for the petitioner and perused the Special Civil Application.

2. The petitioner, a workman of Navjivan Mills Ltd. (closed), filed this Special Civil Application before this Court and prayer has been made for direction to the respondents-authorities to give all the benefits to the petitioner under "The Textile Workers' Rehabilitation

Fund Scheme" formulated by the Government of India for the rehabilitation of the workers of closed textile units.

3. The petitioner has lodged his claim before the respondent No.2, but the respondent No.2 has not granted that claim of the petitioner on the ground that he is not eligible for the benefits to be given to him under the aforesaid scheme. What the respondent No.2 held, is that the petitioner has not completed five years service, which is a requisite qualifying service for eligibility for the benefits under the aforesaid scheme.

4. The learned counsel for the petitioner contended that the petitioner's services from 15-3-1978 to 30-6-1979 have not been considered. Further it has been contended that other period of service from 1-5-1980 to 30-4-1981 has also not been considered. So, there is a dispute between the parties regarding the qualifying service of five years of the petitioner for his eligibility for the benefits under the aforesaid scheme.

5. There is a disputed question of fact, which has arisen in the present case. The petitioner submits that he has worked for five years whereas the respondent No.2 says that he has not worked for five years. This disputed question of fact cannot be gone into by this Court sitting under Article 226 of the Constitution of India. The petitioner is a workman and instead of approaching to this Court in such matter where there is a disputed question of fact, he should have raised an industrial dispute under the provisions of the Industrial Disputes Act, 1947. The title of the writ petition also suggests that this petition has been filed by the petitioner under the provisions of Industrial Disputes Act, 1947. So, it is a case where the petitioner has called upon this Court to go on the disputed question of fact, which normally this Court is not doing, more so, when the petitioner has sufficient remedy available under the provisions of the Industrial Disputes Act, 1947.

6. In the result, this Special Civil Application fails and the same is dismissed only on the ground that the petitioner should raise an industrial dispute in the matter as there is a disputed question of fact, which has arisen in the present case. However, it is made clear that in case the petitioner raises an industrial dispute the same shall not be declined to be referred by the Industrial Tribunal or the Labour Court, as the case may be, only on the ground of delay. Rule discharged.

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